

#9
Election
Amendment

Hyseq Docket No. 790CIP2C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Tang, *et al.*

Serial No: 09/728,711

Filed: November 30, 2000

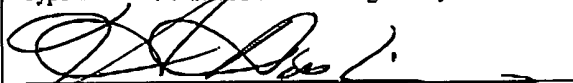
For: NOVEL NUCLEIC ACIDS AND
POLYPEPTIDES

**CERTIFICATE OF FACSIMILE
UNDER 37 CFR 1.6(d)**

I hereby certify that this paper is being transmitted to the United States Patent and Trademark Office by facsimile and addressed to the Assistant Commissioner for Patents, P.O. Box 2327, Arlington, VA 22202.

Date of Facsimile Transmission: June 13, 2002

Type or Print Name of Person Faxing: Annya Dushine


Signature of Person

RESPONSE TO RESTRICTION REQUIREMENT AND AMENDMENT

U.S. Patent and Trademark Office
P.O. Box 2327
Arlington, VA 22202

Dear Examiner Einsmann:

RESTRICTION REQUIREMENT

In response to the May 13, 2002 Restriction Requirement in the above-identified application, Applicants elect with traverse Group I, claims 1-9 and 22-26, drawn to nucleic acids, vectors, host cells, and arrays. In response to the sequence election requirement, Applicants elect with traverse SEQ ID. NO: 1. Applicants make this election without prejudice to pursuing non-elected subject matter in later applications.

PRELIMINARY AMENDMENT

Prior to substantive examination, please amend the application as follows:

IN THE CLAIMS

Please cancel claims 10-21 and 27-28.

Kindly amend pending claims 1, 3, and 22 as follows:

a¹ 1. An isolated polynucleotide comprising a nucleotide sequence selected from the group consisting of SEQ ID NO: 1 or a mature protein coding portion of SEQ ID NO: 1.

a² 3. An isolated polynucleotide encoding a polypeptide with biological activity, wherein said polynucleotide has greater than about 99% sequence identity with the polynucleotide of claim 1.

a³ 22. A collection of polynucleotides, wherein the collection comprises the sequence information of SEQ ID NO: 1.

REMARKS

Upon entry of the foregoing amendments, claims 1-9 and 22-26 are under consideration.

Support for the amendment to claim 1 appears at least in the originally filed claim 1.

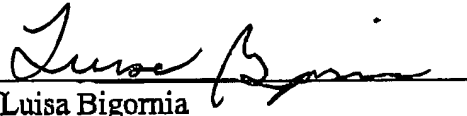
Support for the amendment to claim 3 appears at least from page 28, line 23 to page 29, line 4 of the specification. Support for the amendment to claim 22 appears at least in the originally filed claim 22.

Applicants respectfully submit that the pending claims are in a condition for allowance. Applicants make this amendment for the sole purpose of expediting prosecution and for clarity, and not in response to any ground or reason for patentability in response to an action in this or related cases. An early action on the merits is respectfully requested. The undersigned can be reached at 408-746-4536 if the Examiner wishes to discuss the response.

The response to the Restriction Requirement is due on or before June 13, 2002, with no extension of time. The Commissioner is hereby authorized to charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 501169.

Respectfully submitted,

Date: June 13, 2002

By: 
Luisa Bigornia
Attorney for Applicants
Registration No.: 45,974
HYSEQ, INC.
670 Almanor Avenue
Sunnyvale, CA 94085
(408) 524-8100
(408) 524-8145 (Telefacsimile)